

Lord Mayor's Community Aid Bill

No.

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Clause

1. Purposes.
2. Commencement.
3. Definitions.

PART 2—THE FUND

4. Establishment of the Fund.
5. Payment of money.

PART 3—THE COUNCIL

Division 1—Establishment, Powers and Functions

6. Council to be a body corporate.
7. Functions of the Council.
8. Powers of the Council.
9. Application of Fund money in special circumstances.

Division 2—Composition and Meetings

10. Membership of Council.
11. Assistance by non-members.
12. Term of office of members.
13. Patrons.
14. Meetings of the Council.
15. Annual general meetings.
16. Special meetings.

Division 3—The Executive Committee

17. Establishment and composition.
18. Executive committee meetings.
19. Duties and powers.

Division 4—Sub-committees of the Council

20. Establishment.

Division 5—Procedure

21. Precedence.
22. Quorum.
23. Notice and conditions of special meetings.
24. Voting.

PART 4—MISCELLANEOUS

25. Staff.
26. Records of proceedings etc.
27. Annual report.

- 28. Audit.
- 29. Rules.
- 30. Repeal of *Lord Mayor's Fund Act* 1930.
- 31. Council to succeed earlier fund.
- 32. Transitional.
- 33. References to Lord Mayor's Fund etc.
- 34. Rules etc. under 1930 Act.

SCHEDULE

LEGISLATIVE COUNCIL

Read 1° 14 April 1987

(Brought in by the Honourable D. R. White)

A BILL

to provide for the establishment and operation of the Lord Mayor's Community Aid Fund and to repeal the *Lord Mayor's Fund Act* 1930.

Lord Mayor's Community Aid Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purposes.

1. The purposes of this Act are—

- 5 (a) to establish a fund called the Lord Mayor's Community Aid Fund; and
- (b) to create a body corporate to hold the assets of the Fund and to administer the Fund; and
- (c) to repeal the *Lord Mayor's Fund Act* 1930.

10 **Commencement.**

2. This Act comes into operation on a day to be proclaimed.

Definitions.

3. (1) In this Act—
- “**Chairperson**” means the Chairperson of the Council.
 - “**Council**” means the Lord Mayor’s Community Aid Council, being a body corporate established under section 6. 5
 - “**Deputy Chairperson**” means the deputy Chairperson of the Council.
 - “**Executive committee**” means the committee established under section 17.
 - “**Fund**” means the Lord Mayor’s Community Aid Fund established under section 4. 10
 - “**Institution for community aid**” means an institution, hospital, benevolent or other organisation that—
 - (a) is established or carried on within the metropolitan area; and 15
 - (b) is a fund, authority, or institution referred to in section 78 (1) of the *Income Tax Assessment Act 1936* of the Commonwealth as amended and in force for the time being.
 - “**Metropolitan area**” has the same meaning as in the *Melbourne and Metropolitan Board of Works Act 1958*. 20
 - “**President**” means the president of the Council.
 - “**Rules**” means rules made under section 29.
 - “**Scheduled organisation**” means an organisation that is for the time being listed in the Schedule or declared to be a scheduled organisation under sub-section (2). 25
 - “**Secretary**” means the secretary of the Council appointed under section 25.
 - “**Sub-committee**” means a sub-committee of the Council established under section 20. 30
- (2) On the recommendation of the Council, the Governor in Council, by instrument published in the *Government Gazette*, may declare an organisation to be a scheduled organisation.

PART 2—THE FUND

Establishment of the Fund. 35

4. There is established by this Act the Lord Mayor’s Community Aid Fund.

Payment of money.

5. (1) There shall be paid into the Fund—
- (a) all money given to the Fund; and
 - (b) any income from any investment of money credited to the Fund and the proceeds of the sale of any investment; and
 - (c) any income from property held by the Council and the proceeds of the sale of any property.
- (2) There shall be paid out of the Fund—
- (a) money for the benefit of institutions for community aid or other organisations in accordance with this Act; and
 - (b) the cost of administering and managing the Fund; and
 - (c) any other costs and expenses incurred by the Council in performing its functions or exercising its powers under this Act.
- (3) The cost of administering and managing the Fund is the first charge against the Fund.

PART 3—THE COUNCIL**Division 1—Establishment, Powers and Functions****Council to be a body corporate.**

6. (1) There is established by this Act a body corporate called the Lord Mayor's Community Aid Council.
- (2) The Council—
- (a) has perpetual succession; and
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.
- (3) The seal of the Council must not be used except as prescribed by the rules.
- (4) All courts must—
- (a) take judicial notice of the seal of the Council that has been affixed to any document; and
 - (b) presume that the seal was duly affixed.

Functions of the Council.

7. The functions of the Council are—
- (a) to hold and administer the Fund; and
 - (b) to obtain contributions to the Fund whether by gift, settlement, bequest, devise, subscription or any other means if the acceptance is, in the opinion of the Council, in the interests of the Fund; and

- (c) to act as trustee of money or other property given to the Fund and to administer that money or other property in accordance with the conditions of any trust where those conditions are not inconsistent with this Act; and
- (d) to apply from the Fund amounts of money approved by the Council, for the benefit of institutions for community aid approved by the Council; and 5
- (e) to manage, or assist in the management of, an organisation established for the purpose of obtaining contributions to the Fund; and 10
- (f) to confer and co-operate with the government of Victoria, government departments, statutory bodies, municipal councils and other persons or bodies with respect to furthering the objects of the Fund.

Powers of the Council. 15

8. (1) The Council has the power to do all things necessary or convenient to enable it to perform its functions, and in particular may—

- (a) take, purchase, hold, lease, mortgage, sell and dispose of, or otherwise deal with, real and personal property held by the Council; and 20
- (b) invest money in the Fund in investments permitted under Part I of the *Trustee Act* 1958; and
- (c) if money or an investment is given to the Fund under a trust, invest the money in an investment or continue an investment in accordance with the terms of the trust despite the fact that the investment or class of investment authorised by the trust is not permitted under Part I of the *Trustee Act* 1958. 25

(2) The Council, after consulting with the Chief General Manager of the Department of Health, may apply money in the Fund for the benefit of a scheduled hospital within the meaning of the *Hospitals and Charities Act* 1958. 30

Application of fund money in special circumstances.

9. If— 35

- (a) the Council is of the opinion that there are special circumstances of unforeseen need warranting the application of a specified amount of money from the Fund for the benefit of an institution, hospital, benevolent or other organisation that— 40
 - (i) is not within the metropolitan area; and
 - (ii) is a fund, authority or institution referred to in section 78 (1) of the *Income Tax Assessment Act* 1936 of the

Commonwealth as amended and in force for the time being; and

(b) the Minister approves the expenditure—

5 the Council may apply that amount of money for the benefit of that institution, hospital, benevolent or other organisation.

Division 2—Composition and Meetings

Membership of Council.

10 **10.** The Council consists of—

(a) the Lord Mayor of Melbourne who is the ex-officio President; and

(b) not more than 30 members of whom—

(i) not more than 9 members may be co-opted by the Council for a specified term not exceeding 2 years; and

15 (ii) one member may be nominated by each scheduled organisation.

Assistance by non-members.

11. The Council may co-opt a person who is not a member of the Council to assist the Council, the executive committee or a sub-committee.

20 Term of office of members.

12. (1) A member of the Council referred to in section 10 (b) (i) holds office for the term of the co-option unless the member is removed or replaced by the Council.

25 (2) A member of the Council referred to in section 10 (b) (ii) holds office until the scheduled organisation that nominated that member cancels the nomination of that member or nominates another person to be a member.

(3) A member of the Council may be renominated or co-opted for further terms.

30 (4) A member of the Council may resign from office by delivering to the secretary of the Council a signed letter of resignation.

(5) A vacancy in the Council occurs if a member of the Council —

(a) dies, or in the opinion of the Council is incapable of carrying out the duties of a member; or

35 (b) becomes bankrupt or compounds with, or makes a deed or arrangement for the benefit of, his or her creditors; or

(c) reaches the age of 72; or

(d) is absent for more than 3 consecutive general meetings of the Council without the permission of the Council.

(6) Despite sub-section (5) (c), a member of the Council who reaches 72 years may, with the approval of the Council, continue as a member.

(7) If a vacancy occurs in the office of a member referred to in section 10 (b) (ii), the secretary of the Council must immediately on being notified of the vacancy—

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(a) advise the scheduled organisation that nominated the member whose office has become vacant, of the vacancy; and

(b) request that scheduled organisation to nominate a successor to that member and advise the Council of the name and address of the successor as soon as possible.

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Patrons.

13. (1) The Council may appoint a person as the honorary Patron-in-Chief of the Fund.

(2) The Council may appoint persons as honorary Patrons of the Fund.

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Meetings of the Council.

14. (1) A general meeting of the Council must be held at least every 3 months.

(2) At the last general meeting of the Council in a calendar year the Council must, by resolution, set the dates and times of general meetings of the Council for the forthcoming calendar year, including the annual general meeting of the Council.

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Annual general meetings.

15. The agenda for the annual general meeting of the Council must include a consideration of a report on the affairs of the Council including—

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(a) a full account of income and expenditure of the Council submitted by the executive committee under section 19 (1) (e); and

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(b) a duly audited balance sheet submitted by the executive committee under section 19 (1) (e).

Special meetings.

16. (1) The Chairperson or the deputy Chairperson may, at any time, call a special meeting of the Council.

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(2) The secretary of the Council must call a special meeting of the Council at the written request of not less than 10 members of the Council.

Division 3—The Executive Committee**Establishment and composition.**

17. (1) The Council must establish an executive committee.

5 (2) The Council may, by resolution, delegate to the executive committee any of its functions or powers except—

(a) the power to make rules; and

(b) this power of delegation.

(3) The executive committee consists of—

(a) the Chairperson; and

10 (b) the deputy Chairperson; and

(c) 6 other members of the Council.

(4) The executive committee members—

(a) must be elected by the Council at the first general meeting after the annual general meeting; and

15 (b) hold office from the date of their election until the date of the first general meeting of the Council after the next annual general meeting of the Council.

20 (5) Casual vacancies in the executive committee may be filled by members of the Council electing members of the Council to be members of the executive committee.

(6) A member of the Council who fills a casual vacancy in the executive committee holds office for the balance of the term of the office of the executive committee member whose office the member is filling.

25 **Executive committee meetings.**

18. (1) The executive committee is to meet—

(a) at the time and place determined by the executive committee; or

30 (b) if no time and place is determined by the executive committee, at the time and place fixed by the Chairperson.

(2) The Chairperson or the deputy Chairperson may, at any time, call a special executive committee meeting.

35 (3) The secretary of the Council must call a special executive committee meeting at the written request of at least 3 members of the executive committee.

Duties and powers.

- 19.** (1) The duty of the executive committee is to administer, on behalf of the Council, the money in the Fund and in particular—
- (a) to supervise the efficient conduct of the Fund; and
 - (b) to keep proper accounts and records of income and expenditure; and 5
 - (c) to pass on to the Council accounts for payment; and
 - (d) to engage staff necessary for the administration of the Fund; and
 - (e) to prepare and submit to the annual general meeting of the Council a report of the affairs of the Council for the 12 months to the 30 June last preceding the annual general meeting of the Council including — 10
 - (i) a full account of the income and expenditure of the Council for that period; and 15
 - (ii) a duly audited balance sheet of the Council for that period.
- (2) The executive committee may—
- (a) do all things necessary or convenient to enable it to perform its duties; and 20
 - (b) may exercise functions or powers delegated to it under section 17 (2).
- (3) The executive committee must report its proceedings to the Council at each general meeting of the Council.

Division 4—Sub-committees of the Council

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Establishment.

20. The Council may, by resolution establish sub-committees to perform specified duties and functions as it thinks fit.

Division 5—Procedure

Precedence.

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- 21.** (1) The persons entitled to preside at meetings of the Council, in order of precedence, are—
- (a) the Patron-in-Chief; and
 - (b) the most senior Patron; and
 - (c) the President. 35
- (2) Subject to sub-section (1), the Chairperson, and in the Chairperson's absence, the deputy Chairperson is to preside at general or special meetings of the Council, the executive committee or a sub-committee.

(3) If neither the Chairperson nor the deputy Chairperson is present at a meeting of the Council, the executive committee or a sub-committee, the meeting must elect one of their number to preside at the meeting.

5 Quorum.

22. (1) The quorum for meetings of the Council is a third of the number of members of the Council.

(2) The quorum for meetings of the executive committee is half the number of members of the executive committee.

10 (3) The quorum for meetings of a sub-committee—

(a) is the number fixed by the Council; or

(b) if no quorum is fixed by the Council, half the number of members of the sub-committee plus one.

Notice and conditions of special meetings.

15 23. (1) The secretary or other person calling a special meeting of the Council or the executive committee must give members of the Council or the executive committee (as the case requires) 7 days notice of the meeting or notice of a lesser period determined by the Council.

(2) The notice referred to in sub-section (1) must—

20 (a) set out the purpose of the meeting; and

(b) be delivered personally or by mail to the last known address of each member of the Council or the executive committee (as the case requires).

25 (3) A special meeting of the Council or the executive committee must not consider a matter that is not within the purpose of the meeting as set out in the notice under sub-section (2) (a).

Voting.

24. (1) Voting at any meeting of the Council, the executive committee or a sub-committee is to be—

30 (a) by a show of hands; or

(b) if a member of the Council, the executive committee or a sub-committee (as the case may be) present at a meeting requests that a question before the meeting be determined by secret ballot, by secret ballot.

(2) If a question put before a meeting of the Council, the executive committee or a sub-committee receives an equality of votes, the person presiding at the meeting has a casting vote on that question.

PART 4—MISCELLANEOUS

Staff.	5
25. (1) The executive committee—	
(a) must appoint a secretary as the chief executive officer of the the Council; and	
(b) may employ or appoint other persons as it thinks fit.	
(2) The executive committee may determine the terms and conditions of service of persons appointed or employed, including remuneration and termination of service.	10
(3) A person appointed or employed by the executive committee must not accept a commission for money collected or received on behalf of the Fund.	15
Records of proceedings etc.	
26. The Council, the executive committee and sub-committees must keep proper records of their proceedings and affairs.	
Annual report.	
27. (1) The Council must—	20
(a) prepare an annual report of the affairs of the Council; and	
(b) give the Minister a copy of the report not later than a month after the annual general meeting.	
(2) The Minister must cause the report referred to in sub-section (1) to be tabled in each House of Parliament not later than the tenth day upon which that House sits after the Minister received the report.	25
Audit.	
28. (1) The accounts and records referred to in section 19 (1) (e) must be audited annually by the Auditor-General.	
(2) The Auditor-General has in respect of the audit of those accounts and records, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.	30
(3) Without limiting the generality of sub-section (2), the Auditor-General and the officers of the Auditor-General—	
(a) have right of access at all times to the books, accounts and vouchers of the Council; and	35
(b) may require from a member of the Council staff any information, assistance and explanations necessary for the	

performance of the duties of the Auditor-General in relation to the audit.

- 5 (4) The Council must pay into the Consolidated Fund any amounts determined by the Auditor-General as payable by the Council to meet the costs and expenses of any audit by the Auditor-General of the accounts and records of the Council.

Rules.

29. (1) The Council has the power to make rules for or with respect to—

- 10 (a) the management and administration of the Fund; and
(b) elections of executive committee members and co-option of persons as members of the Council; and
(c) meetings of the Council, the executive committee or a sub-committee and business transacted at those meetings; and
15 (d) the procedure and conduct of business of the Council, the executive committee, or a sub-committee; and
(e) the custody and use of the corporate seal; and
(f) the powers and duties of persons appointed or employed by
20 the Council; and
(g) the control, supervision and discipline of persons appointed or employed by the Council.

(2) A rule may only be made, repealed or amended if the rule, its repeal or amendment is—

- 25 (a) passed by a majority of the members of the Council present at a general meeting of the Council; and
(b) confirmed by a majority of the members of the Council present at a subsequent general or special meeting of the Council.

30 **Repeal of *Lord Mayor's Fund Act 1930*.**

30. The *Lord Mayor's Fund Act 1930* is repealed.

Council to succeed earlier fund.

31. (1) On the date of the commencement of this Act—

- 35 (a) the Council is the successor to the Lord Mayor's Fund for Metropolitan Hospitals and Charities incorporated under the *Lord Mayor's Fund Act 1930*; and
(b) all money standing to the credit of the Lord Mayor's Fund for Metropolitan Hospitals and Charities stands to the credit
40 of the Fund; and

- (c) all liabilities of the Lord Mayor's Fund for Metropolitan Hospitals and Charities become the liabilities of the Council and may be met out of the money in the Fund.

Transitional.

32. (1) The secretary of the Council of the Lord Mayor's Fund for Metropolitan Hospitals and Charities established under the *Lord Mayor's Fund Act* 1930 must call the first meeting of the Council not later than 3 months after the commencement of this Act. 5
- (2) Not later than 30 days before the first meeting of the Council the secretary of the Council of the Lord Mayor's Fund for Metropolitan Hospitals and Charities established under the *Lord Mayor's Fund Act* 1930 must— 10
- (a) notify all scheduled organisations of the date of the first meeting of the Council; and
- (b) invite each scheduled organisation to nominate one person to be a member of the Council. 15
- (3) Until the first meeting of the Council—
- (a) the Council of the Lord Mayor's Fund for Metropolitan Hospitals and Charities established under the *Lord Mayor's Fund Act* 1930 is to continue in office as if it were the Council established under this Act; and 20
- (b) the executive committee of the Council of the Lord Mayor's Fund for Metropolitan Hospitals and Charities established under the *Lord Mayor's Fund Act* 1930 is to continue in office as if it were the executive committee established under this Act. 25
- (4) At the first meeting of the Council, the Council must elect an executive committee which is to hold office until the first general meeting of the Council held after the first annual general meeting of the Council.
- (5) The secretary for the Lord Mayor's Fund for Metropolitan Hospitals and Charities established under the *Lord Mayor's Fund Act* 1930 and all officers and employees of the Lord Mayor's Fund— 30
- (a) are to remain in office as the secretary, officers and employees of the Council until resignation, or termination of their appointment or employment by the Council in accordance with the terms and conditions of those appointments or employments; and 35
- (b) are to retain the benefits and entitlements that accrued to them under the *Lord Mayor's Fund Act* 1930 as if this Act had not been passed. 40

References to Lord Mayor's Fund etc.

- 5 **33.** A reference in a trust, deed, will or any other document to the "Lord Mayor's Fund" or the "Lord Mayor's Fund for Metropolitan Hospitals and Charities" is to be treated as if it is a reference to the "Lord Mayor's Community Aid Fund".

Rules etc. under 1930 Act.

- 34.** The rules and regulations made under the *Lord Mayor's Fund Act* 1930 continue in force to the extent that they are applicable to this Act until they are amended or repealed by the Council.
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SCHEDULE**Section 3**

Association of Friendly Societies
Association of Philanthropic Trusts
Association of Trustee Companies
Australian Medical Association (Victorian Branch)
Australian Society of Accountants (Victorian Branch)
Bankers Association
Institute of Chartered Accountants
Law Institute of Victoria
Melbourne Chamber of Commerce
Retail Traders Association of Victoria
Returned Services League (Victoria Branch)
Trades Hall Council
Victorian Chamber of Manufacturers
Victorian Employers' Federation
Victorian Hospitals Association